



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------------|------------------|
| 10/727,697 | 12/04/2003 | Ted A. Barnes | PGI 02910 PTUS | 8662 |
| 32233 | 7590 | 05/26/2010 | | |
| STORM LLP BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202 | | | EXAMINER VANTERPOOL, LESTER L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3782 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 05/26/2010 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: TED A. BARNES

Appeal 2010-007942
Application 10/727,697
Technology Center 3700

Before Maria Vignone, *Supervisory Trial Clerk*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 03, 2010. A Docketing Notice was mailed on May 24, 2010. Upon review of the application, it has been determined that a remand to the Examiner is necessary to consider the following issues and to take necessary corrective action.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on November 03, 2009. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR § 41.43(a)(1) and MPEP § 1208, part II.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

A Supplemental Examiner's Answer is an improper acknowledgment of the Reply Brief as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

Accordingly, it is ORDERED that the application is returned to the Examiner to:

1) generate and mail either:

a) a communication properly acknowledging the Reply Brief filed November 03, 2009 in accordance with MPEP§ 1208, part II; OR

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;
- and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KMF

STORM LLP
Bank of America Plaza
901 Main Street, Suite 7100
Dallas, TX 75202